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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/852,119
Filing Date: May 09, 2001
Appellant(s): BRACO, RONALD A.

OCT 19 2007

GROUP 3600

Kevin L. Wingate
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/16/2007 appealing from the Office action mailed 04/18/2007.

(1) Real Party in Interest

A statement identifying by name and the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5465206

Hilt et al

11-1993

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-21, 24-26, 31-32, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Kolling et al (Koll hereinafter US PAT: 5,963,925).

Re claim 1. Koll discloses a switching system for electronic presentment and payment of bills over a network, comprising: a first consumer service provider device which is in electronic communication with a first consumer terminal, a first biller service provider device which is in electronic communication with a first biller terminal, a second consumer terminal; a second biller terminal (see fig.2 elements 140, 134, 102, and 106); and a switching network (i.e., central site switch, see fig.3 element 214, also see the abstract) for which is in electronic communication with said first consumer service provider device using one of a first message standard protocol and a second message standard protocol, with said first bill service provider device using one said first and second message standard protocols, with said second consumer terminal using one of

Art Unit: 3692

said first and second message standard protocols, and with said second biller terminal using, one of said first and second message standard protocols(fig.2, see col.9 lines 1-24, also see col.10 lines 32-67); routing presentment information between said first consumer service provider or said second consumer terminal and said first bill service provider or said second biller terminal (i.e., central switch computer coordinates template storage, validation, routing, and message passing between billers, workstations, and consumer financial institutions..., see the abstract), said switching network being a multi-standard switch configured to facilitate electronic communication between said first consumer service provider or said second consumer terminal and said first bill service provider and said second biller terminal irrespective of which message standard protocol each of said first consumer service provider, said first bill service provider, said second consumer terminal, and said second biller terminal use (see col.9, lines 1-24, see col.10 lines 32-67, see col.10 lines 55-65) (see abstract).

Re claim 2. Koll further discloses a switching system, wherein said switching network routes information between said consumer service provider or said second consumer terminal and said bill service provider or said second biller terminal without reformatting (see col.10, lines 55 – 65, also see col.13, lines 35-45 – a biller may supply a variety of templates each suitable for handling a different data standard that would enable a CFI to present electronic statement a variety of forms to its customers).

Re claim 3. Koll further discloses a switching system, further comprising a second consumer service provider device which is in electronic communication with a third consumer terminal (see fig.1 and fig.2), said switching network being in electronic

Art Unit: 3692

communication with said second consumer service provider device using a different one of said first and second message standard protocols than the one of said first and second message protocols which is used between said first consumer service provider and said switching network (i.e., as system 200 may accommodate any number of billers, during any given time period switch 214 is receiving batches of statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI, see col.10 lines55-65, also see CFI can deliver electronic statement to consumers using the consumer's medium of choice, col.9 lines 1-14).

Re claim 4. Koll further discloses a switching system, further comprising a consumer payment provider (i.e., CFI, fig.2, element 132) device in electronic communication between said first consumer service provider device and said switching network (see fig.2, also see col.4, line 63 through col.5, line 30).

Re claims 5 . Koll further discloses a switching system, further comprising a second biller service provider device in electronic communication with a third consumer terminal (see fig.2, also see col.4, line 63 through col.5, line 30) said switching network being in electronic communication with said second consumer service provider device using a different one of said first and second message standard protocols than the one of said first and second message protocols which is used between said first consumer service provider and said switching network (i.e., as system 200 may accommodate any number of billers, during any given time period switch 214 is receiving batches of

Art Unit: 3692

statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI, see col.10 lines55-65, also see CFI can deliver electronic statement to consumers using the consumer's medium of choice, col.9 lines 1-14).

Re claim 6. Koll further discloses a switching system, further comprising a biller payment provider (i.e., BFI, fig.2, element 108, also see col.7 lines 50-56) device in electronic communication between said first consumer service provider device and said switching network (see fig.2).

Re claim 7. Koll further discloses a switching system, further comprising a payee terminal (i.e., BSP fig.2, since biller's provider can also serve as a payee, see col.7, lines40-50, also see fig.12) in electronic communication with said biller payment provider device (i.e., BFI fig.2, element 108) (see fig.2).

Re claim 8. Koll further discloses a switching further comprising an associated memory device in which a directory of said first consumer service provider device, said first bill service provider device, said second consumer terminal, and said second biller terminal is stored (see col.33 lines 40-67), wherein said first consumer service provider device, said first bill service provider device, said second consumer terminal, and said second biller terminal must each be registered in said directory in order to access said switching network (see fig.6a element504, fig.8 element 700)

Re claim 9. Koll further discloses a switching system for electronic presentment and payment of bills over a network, comprising: a consumer terminal; a biller terminal; and

Art Unit: 3692

a switching network which is electronic communication with said consumer terminal (see fig.1 and fig.2, also see the abstract) using one of a first message standard protocol and a second message standard protocol and with said biller terminal using one of said first and second message protocols, exchanging billing information between said consumer terminal and said biller, terminal irrespective of which message protocol each of said consumer terminal and said biller terminal use (i.e., as system 200 may accommodate any number of billers, during any given time period switch 214 is receiving batches of statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI, see col.10 lines55-65, also see CFI can deliver electronic statement to consumers using the consumer's medium of choice, col.9 lines 1-14), said switching network routing bill summary data generated by a biller terminal for presentment at said consumer terminal (i.e., kolls can display summary invoice as well as the whole involve in any format chosen by the consumers, see col.31, lines 57-67), complete bill data being accessible only by direct communication between the consumer terminal and said biller terminal (see fig.2 and fig.3, also see col.9, lines 1-24).

Re claim 10. Claim 10 recites similar limitations to claim 2, and thus rejected using the same art and rationale in the rejection of claim 2.

Re claim 11. Claim 11 recites similar limitations to claim 3, and thus rejected using the same art and rationale in the rejection of claim 3.

Art Unit: 3692

Re claim 12. Claim 12 recites similar limitations to claim 4, and thus rejected using the same art and rationale in the rejection of claim 4.

Re claim 13. Claim 13 recites similar limitations to claim 5, and thus rejected using the same art and rationale in the rejection of claim 5.

Re claim 14. Claim 14 recites similar limitations to claim 6, and thus rejected using the same art and rationale in the rejection of claim 6.

Re claim 15. Claim 15 recites similar limitations to claim 7, and thus rejected using the same art and rationale in the rejection of claim 7.

Re claim 16. Claim 16 recites similar limitations to claim 8, and thus rejected using the same art and rationale in the rejection of claim 8.

Re claims 17, 20 and 24. Koll discloses a method for electronic presentment and payment of bills over a network, comprising: providing a switching network for facilitating electronic presentment and payment of bills (see abstract); establishing electronic communication between said switching network and first and second biller terminals and first and second consumer terminals (see fig.1 and fig.2), said switching network being a multi-standard switch configured to communicate with said first and second biller terminals and said first and second consumer terminals in either of at least first and second message standard protocols, said switching network communicating with at least one of said first and second biller terminals and said first and second consumer terminals using said first message standard protocol and at least one of said first and second biller terminals and said first and second consumer terminals using said second message protocol (i.e., as system 200 may accommodate any number of billers, during

Art Unit: 3692

any given time period switch 214 is receiving batches of statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI, see col.10 lines55-65, also see CFI can deliver electronic statement to consumers using the consumer's medium of choice, col.9 lines 1-14); generating a bill summary data from complete bill data provided by each of said first and second billing terminals; selectively routing portions of said bill summary data via the switching network to present appropriate portions of said bill summary data to said first and second consumer billing terminals (i.e., kolls can display summary invoice as well as the whole involve in any format chosen by the consumers, see col.31, lines 57-67) (see abstract).

Re claim 18. Koll further discloses the method, wherein electronic communication between said switching network and said first consumer terminal is established through a first consumer service provider device, and wherein electronic communication between said switching network and said second consumer terminal is established through a second consumer service provider device(i.e., as system 200 may accommodate any number of billers, during any given time period switch 214 is receiving batches of statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI, see col.10 lines55-65, also see CFI can deliver electronic statement to consumers using the consumer's medium of choice, col.9

Art Unit: 3692

lines 1-14, also see fig.1 and fig.2).

Re claim 19. Claim 19 recited similar limitations to claim 2, and thus rejected using the art and rationale in the rejection of claim 2.

Re claim 21. Koll further discloses a method, further comprising the steps of, storing a directory of consumer terminals which are registered with said switching network in an associated memory device (see col.33 lines 40-67); generating payment instructions from said first and second consumer terminals; transmitting said payment instructions which are generated by said first and second consumer terminals to the said switching network(see col.13, lines 52-58); verifying that said payment instructions are from consumer terminals which are registered with said switching network, causing said payment instructions to be executed (consumers are presented with a login prompt (see fig.11), which allows only customers who are registered with the switching network to gain access to the said switching network. Inherently, the payment instructions made by said consumers from the consumer terminals are verified).

Re claim 25. Claim 25 recites similar limitations to claim 1, and thus rejected using the same art and rationale in the rejection of claim 1.

Re claim 26. Koll discloses a system for electronic presentment and payment of bills over a network, comprising: a consumer terminal; a biller terminal in communication with said consumer terminal (see fig 1 and fig.2); and a switching network for routing a payment message for a particular bill between said consumer terminal and biller terminal (see col.9, lines 1-24, also see the abstract) irrespective of whether the

Art Unit: 3692

particular bill has been previously presented to said consumer terminal (i.e., optional section of the bill are downloaded at the customers request., see col.19, lines 15-20).

Re claim 31. Koll further discloses a switching system, wherein said first message standard protocol comprises the Open Financial Exchange ("OFX") standard protocol and said second message standard protocol comprises the Interactive Financial Exchange ("IFX") standard protocol (see col.33 lines 15-40).

Re claim 32. Koll further discloses a switching system, wherein said switching network routes bill summary data generated by said biller service provider device or by said first or second biller terminals for presentment at said first or second consumer terminals (see abstract) complete bill data being accessible only by direct communications between said first or second consumer terminals and said biller service provider device or said first or second biller terminals (i.e., as system 200 may accommodate any number of billers, during any given time period switch 214 is receiving batches of statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI, see col.10 lines 55-65, also see CFI can deliver electronic statement to consumers using the consumer's medium of choice, col.9 lines 1-14) (see abstract).

Re claim 34. Koll further discloses a switching system, wherein said switching network is arranged and configured to log all presentment and payment communications as they are routed for reporting on a periodic basis (see col.12, lines 20-27).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22, 23 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koll in view of Hilt et al (Hilt hereinafter U.S. PAT 5,465,206).

6. **Re claim 22.** Koll does not explicitly disclose the method, wherein prior to said step of causing said payment instructions to be executed said switching network verifies that a sufficient balance exists in financial account associated with each consumer terminal from which payment instructions are received to cover the bill being paid. Hilt makes this disclosure (see abstract, also see fig.11, element 254). Thus, it would have been obvious to one of ordinary skill in the art to combine Koll and Hilt in order to prevent loss to the biller.

Re claim 23. Koll does not explicitly disclose the method, further comprising the step of settling all payment transactions over a predetermined cut-off period. Hilt makes this disclosure (i.e., a due date, see col.13 lines 40-50). Thus, it would have been obvious to one of ordinary skill in the art to combine Koll and Hilt in order to ensure that billers are properly and timely compensated for the services they provide to the consumers.

Re claim 33. Koll does not explicitly disclose a switching system, wherein said switching network is arranged and configured to provide net settlement

functionality by debiting financial accounts associated with consumers associated with said first and second consumer terminals and crediting the financial accounts of billers associated with said first and second biller terminals by appropriate amounts. However, Hilt makes this disclosure (see abstract, also see fig11). Thus, it would have been obvious to one of ordinary skill in the art to combine Koll and Hilt in order to ensure that billers are properly and timely compensated for the services they provide to the consumers.

(10) Response to Argument

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claims 1-2, 4, 7, and 34. The appellant argues in substance that the primary reference, Kolling, does not teach a multi-standard switch which is configured to communicate using a plurality of different message standard protocols. Contrary to the appellant's assertion, Kolling explicitly discloses a multi-standard switch which is configured to communicate using a plurality of different message standard protocols (i.e., Central site switch 214 may be implemented on any suitable computer. By way of example, an IBM-compatible server running Microsoft Windows NT Server has been found to produce desirable results. In an alternative embodiment, switch 214 is composed of two computers, one computer for switching ESP system data to CFIs, and a second computer for switching electronic bill payments back to billers. The functionality of switch 214 as it relates to ESP system 200 will be herein described; functionality of a comparable central site switch as it relates to electronic bill payments In general, switch 214 serves as a store and forward switch to route all ESP

Art Unit: 3692

system data between system end points. It also includes a template library 216 for templates produced within system 200 and provides for data archiving, system audits and reconciliation. Switch 214 receives templates 212 from TAWS 210 for storage in template library 216. Switch 214 may then transmit a template 212 to template validation workstation (TVAL) 218 for template validation, transmit a template 212 to SORG 208 to validate statement data, or transmit a template 212 to statement generation workstation (SGEN) 222 for generation of an electronic statement. Based upon biller and consumer identification provided in templates and statement data, switch 214 is able to route templates 212 and statement data 220 to the appropriate SGEN 222 and on to the appropriate CFI 130. As system 200 may accommodate any number of billers, during any given time period switch 214 is receiving batches of statement data from any number of billers (and any number of SORGs) and routing the statement data to any number of appropriate SGENs 222. In other words, a batch of statement data from one biller may be distributed to any number of SGENs each located in a different CFI - see col.10 lines 32-67). Kolling teaches that his switch can transmit data from one biller to any number of statement generated workstations each located in a different consumer's financial institution (CFI) – see col.10 lines 62-65.) It is common sense to note that different financial institutions runs different protocols on their networks, and since Kolling can transmit data to any number of statement generated workstations each located in a different consumer's financial institution (CFI), that in and of itself buttresses the point that Kolling is a multi-standard switch which can be configured to communicate using a plurality of different message standard protocols.

The examiner asserts that any switch can be configured to communicate using a plurality of different message standard protocols. This is actually one of the fundamental advancements of a switch over a hub i.e., being able to communicate using a plurality of different message standard protocols. Thus since Kolling discloses a central switch for routing data from one node to another (see Kolling abstract), certainly Kolling's switch is a multi-standard switch which can be configured to communicate using a plurality of different message standard protocols.

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claims 3-5. The appellant further argues in substance that the primary reference, Kolling, does not teach a message protocol. Let us look at the phrase "message protocol" in the context of claim 3, claim 3 recites "said switching network being in electronic communication with said second consumer service provider device using a different one of said first and second message standard protocols than the one of said first and second message protocols which is used between said first consumer service provider and said switching network." Kolling teaches that his switch can transmit data from one biller to any number of statement generated workstations each located in a different consumer's financial institution (CFI) – see col.10 lines 62-65. It is common sense to note that different financial institutions runs different protocols on their networks, and since Kolling can transmit data to any number of statement generated workstations each located in a different consumer's financial institution (CFI), that in and of itself buttresses the point that Kolling is a multi-standard switch which can be configured to communicate using a plurality of different message standard protocols.

The examiner asserts that any switch can be configured to communicate using a plurality of different message standard protocols. This is actually one of the fundamental advancements of a switch over a hub i.e., being able to communicate using a plurality of different message standard protocols. Thus since Kolling discloses a central switch for routing data from one node to another (see Kolling abstract), certainly Kolling's switch is a multi-standard switch which can be configured to communicate using a plurality of different message standard protocols. Kolling further states that electronic statement data can be delivered to consumers using the consumer's medium of choice i.e., internet, telephones, PDAs, WebTV etc - col.9 lines 1-14). Thus it is common sense to note that different medium run different message protocols on their communication system, and since Kolling can deliver electronic statement data to consumers using the consumer's medium of choice i.e., internet, telephones, PDAs, WebTV etc, that in and of itself buttresses the point that Kolling is a multi-standard switch which can be configured to communicate using a plurality of different message standard protocols

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 6. The appellant further argues in substance that a biller payment provider (BPP) as recited in claim 6 is defined in the specification as an individual, a company, or any other entity that receives and consolidates consumer payments on behalf of a biller and provides an electronic and/or paper for payment posting by the biller, and the primary reference, Kolling, does not teach a biller payment provider (BPP) as stated supra. Contrary to the applicant's assertion, the examiner asserts that Kolling discloses a Biller Financial Institution (BFI) such as a bank or other financial institution; BFI may

Art Unit: 3692

have relationships with any number of billers. For a particular biller, BFI may choose to collect consumer statements from this biller or from a BSP for forwarding to the ESP system, or from any combination of these – see col.7 lines 50-56. Thus a Biller Financial Institution (BFI) as taught by Kolling is tantamount to a biller payment provider (BPP) as disclosed by the applicant.

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 8. The appellant further argues in substance that Kolling does not disclose a switching further comprising an associated memory device in which a directory of said first consumer service provider device, said first bill service provider device, said second consumer terminal, and said second biller terminal is stored. However, Kolling makes this disclosure (i.e., a computer system 980 in accordance with an embodiment of the present invention. Computer system 980 includes any number of processors 982 (also referred to as central processing units, or CPUs) that are coupled to storage devices including primary storage 986 (such as random access memory, or RAM) and primary storage 984 (such as a read only memory, or ROM). As is well known in the art, primary storage 984 acts to transfer data and instructions uni-directionally to the CPU and primary storage 986 is used typically to transfer data and instructions in a bi-directional manner. Both of these primary storage devices may include any suitable of the computer-readable media described below. A mass storage device 988 is also coupled bi-directionally to CPU 982 and provides additional data storage capacity and may also include any of the computer-readable media described below. Mass storage device 988 may be used to store programs, data and the like and is typically a

Art Unit: 3692

secondary storage medium (such as a hard disk) that is slower than primary storage. It will be appreciated that the information retained within mass storage device 988, may, in appropriate cases, be incorporated in standard fashion as part of primary storage 986 as virtual memory. A specific mass storage device such as a CD-ROM 994 passes data uni-directionally to the CPU, see col.33 lines 40-67). The appellant further argues that Kolling fails to teach registering the terminals of the consumer service provider, biller service provider device, the consumer or the biller. The examiner asserts that Kolling explicitly makes this disclosure (see fig.6a element 504, fig.8 element 700).

In response to the appellant's argument concerning the 35 U.S.C 102 (e)

rejection of claim 9-13 and 15. The appellant further argues in substance that Kolling does not show any direct communication between the consumer terminal and the biller terminal. Kolling explicitly shows direct communication between the consumer terminal and the biller terminal (see fig.1 elements 12 and 14).

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 14 .

The appellant further argues in substance that a biller payment provider (BPP) as recited in claim 6 is defined in the specification as an individual, a company, or any other entity that receives and consolidates consumer payments on behalf of a biller and provides an electronic and/or paper for payment posting by the biller, and the primary reference, Kolling, does not teach a biller payment provider (BPP) as stated supra. Contrary to the applicant's assertion, the examiner asserts that Kolling discloses a Biller Financial Institution (BFI) such as a bank or other financial institution; BFI may have relationships with any number of billers. For a particular biller, BFI may choose to

collect consumer statements from this biller or from a BSP for forwarding to the ESP system, or from any combination of these – see col.7 lines 50-56. Thus a Biller Financial Institution (BFI) as taught by Kolling is tantamount to a biller payment provider (BPP) as disclosed by the applicant.

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 16 . The appellant further argues in substance that Kolling does not disclose a an associated memory device in which a directory of said first consumer service provider device, said first bill service provider device, said second consumer terminal, and said second biller terminal is stored. However, Kolling makes this disclosure (i.e., a computer system 980 in accordance with an embodiment of the present invention. Computer system 980 includes any number of processors 982 (also referred to as central processing units, or CPUs) that are coupled to storage devices including primary storage 986 (such as random access memory, or RAM) and primary storage 984 (such as a read only memory, or ROM). As is well known in the art, primary storage 984 acts to transfer data and instructions uni-directionally to the CPU and primary storage 986 is used typically to transfer data and instructions in a bi-directional manner. Both of these primary storage devices may include any suitable of the computer-readable media described below. A mass storage device 988 is also coupled bi-directionally to CPU 982 and provides additional data storage capacity and may also include any of the computer-readable media described below. Mass storage device 988 may be used to store programs, data and the like and is typically a secondary storage medium (such as a hard disk) that is slower than primary storage. It will be appreciated that the

Art Unit: 3692

information retained within mass storage device 988, may, in appropriate cases, be incorporated in standard fashion as part of primary storage 986 as virtual memory. A specific mass storage device such as a CD-ROM 994 passes data uni-directionally to the CPU, see col.33 lines 40-67). The appellant further argues that Kolling fails to teach registering the terminals of the consumer service provider, biller service provider device, the consumer or the biller. The examiner asserts that Kolling explicitly makes this disclosure (see fig.6a element 504, fig.8 element 700).

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 17-19 and 24. The appellant further argues in substance that Kolling does not teach selectively routing portions of the bill summary data to the first and second consumer billing terminal. However, Kolling can route and display summary invoice as well as the whole invoice in any format chosen by the consumers, see col.31, lines 57-67).

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 20. The appellant further argues in substance that Kolling does not show any direct communication between the consumer terminal and the biller terminal. Kolling explicitly shows direct communication between the consumer terminal and the biller terminal (see fig.1 elements 12 and 14).

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 21. The appellant further argues in substance that Kolling does not teach storing a directory of consumer terminals which are registered with said switching network in an associated memory device. However, Kolling makes this disclosure (i.e.,

Art Unit: 3692

a computer system 980 in accordance with an embodiment of the present invention.

Computer system 980 includes any number of processors 982 (also referred to as central processing units, or CPUs) that are coupled to storage devices including primary storage 986 (such as random access memory, or RAM) and primary storage 984 (such as a read only memory, or ROM). As is well known in the art, primary storage 984 acts to transfer data and instructions uni-directionally to the CPU and primary storage 986 is used typically to transfer data and instructions in a bi-directional manner. Both of these primary storage devices may include any suitable of the computer-readable media described below. A mass storage device 988 is also coupled bi-directionally to CPU 982 and provides additional data storage capacity and may also include any of the computer-readable media described below. Mass storage device 988 may be used to store programs, data and the like and is typically a secondary storage medium (such as a hard disk) that is slower than primary storage. It will be appreciated that the information retained within mass storage device 988, may, in appropriate cases, be incorporated in standard fashion as part of primary storage 986 as virtual memory. A specific mass storage device such as a CD-ROM 994 passes data uni-directionally to the CPU, see col.33 lines 40-67).

In response to the appellant's argument concerning the 35 U.S.C 102 (e)

rejection of claim 25. Appellant's argument here is similar to the one raised in the rejection of claim 1 supra, please see the response to the argument made to the rejection claim 1 supra.

Art Unit: 3692

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection

of claim 26. The appellant's further argues that Kolling fails to teach a switching network for routing a payment message for a particular bill between said consumer terminal and biller terminal, irrespective of whether the particular bill has been previously presented to said consumer terminal. Contrary to the applicant's assertion, the examiner maintains that Kolling explicitly makes this disclosure (i.e., switch 214 transmits template 212 to a statement generation workstation (SGEN) 222.

Periodically during a billing cycle, switch 214 routes standard statement data 220 using information contained in the data to SGEN 222. Using template 212 and standard statement data 220, SGEN 222 generates an electronic statement 224 and transmits it to consumer financial institution (CFI) 130. CFI 130 then delivers electronic statement 224 to consumer 140 using the consumer's medium of choice. During operation of ESP system 200, switch 214 receives billing information from a universal biller file (UBF) 300 (described in FIG. 4) and distributes information needed to entities within the system, see Kolling col.9 lines 1-20).

In response to the appellant's argument concerning the 35 U.S.C 102 (e)

rejection of claim 31. The appellant further argues in substance that Kolling fails to disclose Interactive Financial Exchange Standard Protocol (IFX) i.e., a standard for the exchange of financial data and instructions independent of a particular platform or technology. However, Kolling ESP system can exchange financial data and instructions independent of a particular platform or technology i.e., Kolling ESP system is able to interface with a wide variety of operating software environments. In one specific

Art Unit: 3692

embodiment, the system interfaces with Ethernet or token ring networks, supports TCP/IP transport, is compatible with Windows NT 4.0, is compatible with the Open Financial Exchange framework (OFX), and transfers information via shared files, see Kolling col.33, lines 15-40). The appellant should note that Ethernet or token ring networks, TCP/IP transport, Windows NT 4.0, and Open Financial Exchange framework (OFX) are different platforms or technology in a communication system, and since Kolling teaches that his ESP system can interface with a wide variety of Platforms, it is very clear that Kolling system is platform or technology independent, and thus is compatible with IFX.

In response to the appellant's argument concerning the 35 U.S.C 102 (e) rejection of claim 32. Appellant's argument here is similar to the one raised in the rejection of claim 20 supra, please see the response to the argument made to the rejection of claim 20 supra.

In response to the appellant's argument concerning the 35 U.S.C 103 (a) rejection of claim 22. Appellant argues in substance that neither Kolling nor Hilt discloses the limitation of claim 22. Claim 22 recites the limitation "the method, wherein prior to said step of causing said payment instructions to be executed said switching network verifies that a sufficient balance exists in financial account associated with each consumer terminal from which payment instructions are received to cover the bill being paid." The examiner concurs that Kolling does not explicitly make this disclosure. However, Hilt compensates for the incomplete teachings of Kolling by explicitly making this disclosure (see Hilt fig.11 element 254). Thus, it would have been obvious to one of ordinary skill in

the art to combine Kolling and Hilt in order to ensure that billers are properly and timely compensated for the services they provide to the consumers.

In response to the appellant's argument concerning the 35 U.S.C 103 (a) rejection of claim 23. Appellant argues in substance that neither Kolling nor Hilt discloses the step of settling all payment transactions over a predetermined cut-off period. Hilt discloses the step of settling all payment transactions over a predetermined cut-off period (i.e., due date, please see Hilt col.13 lines 40-50 "Biller B's BRN appears on bill 120 sent from B to C; bill 120 also includes an indication that biller B will and can accept electronic payments through this system (usually a payment network service mark), an indication of B's BRN, an amount due, **possibly a due date**, and C's C-B account number. Since a physical coupon is no longer needed by biller B, bill 120 could just as easily be an e-mail invoice as a postal mail paper invoice"). Thus, it would have been obvious to one of ordinary skill in the art to combine Koll and Hilt in order to ensure that billers are properly and timely compensated for the services they provide to the consumers.

In response to the appellant's argument concerning the 35 U.S.C 103 (a) rejection of claim 33. Appellant's argument here is similar to the one raised in the rejection of claim 1 supra, please see the response to the argument made to the rejection of claim 1 supra.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3692

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ojo O. Oyebisi

Examiner

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SPE 3692

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